

**INTERGOVERNMENTAL COOPERATION AGREEMENT  
BETWEEN MILWAUKEE COUNTY AND THE CITY OF MILWAUKEE**

**REPLACEMENT, MAINTENANCE, AND USE OF IMPROVEMENTS WITHIN  
MACARTHUR SQUARE EASEMENT AREA**

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT ("Agreement") is made pursuant to Wis. Stat. § 66.0301 by and between the City of Milwaukee, a municipal corporation ("City") and Milwaukee County, a body corporate and politic ("County") (hereafter individually referred to as "Party" or collectively as the "Parties").

**RECITALS**

WHEREAS, by an agreement between the City and County dated September 14, 1976, and recorded with the Milwaukee County Register of Deeds as document number 05040509, the City granted to the County a permanent easement to certain City-owned real property described therein and used in conjunction with the Milwaukee County Museum ("Easement"). A copy of the recorded Easement and its legal description are attached hereto and marked as Exhibit A;

WHEREAS, the Easement granted certain rights and responsibilities to the County, including, but not limited to, the responsibility of "maintenance and repair of the surfaces of all floors, walls[,] and ceilings of the rooms situated in the areas herein conveyed";

WHEREAS, the Easement granted certain rights and responsibilities to the City, including, but not limited to, the responsibility of "structural maintenance and repair of all such walls, ceilings[,] and floors";

WHEREAS, by an agreement between the City and County dated October 6, 1983, the City granted additional rights to the County, but did not alter the responsibilities of the Parties to maintain and repair the floors, walls, and ceilings to the same extent as the original Easement;

WHEREAS, the flooring of Parcel 5 identified in the Easement as the Civic Center Plaza or Space Center ("Parcel 5") was originally intended to be the floor of a building to be constructed thereon on a later date and was therefore made from voided concrete designed for indoor use;

WHEREAS, the structure above Parcel 5 was never constructed, and the voided concrete slab has deteriorated because it has been exposed to outdoor weather elements since its construction in the 1960s;

WHEREAS, a structural engineering consultant hired by the City has inspected the voided concrete slab and provided a report on June 8, 2015, that recommended replacement of the voided concrete slab;

WHEREAS, the structural engineering consultant has been hired to design a replacement slab that will meet the County's needs for light parking or occupied outdoor space on Parcel 5;

WHEREAS, the work necessary to replace the deteriorated concrete slab is expected to occur in 2018 and/or 2019;

WHEREAS, the County will retain the rights to use Parcel 5 as described in the Easement, and shall be responsible for maintenance of the slab surface and snow removal and limited in its use of Parcel 5 as described in this Agreement;

WHEREAS, the City and County agree to a proportionate share of the cost of replacing the voided concrete slab, reflective of their respective roles as owner and easement occupant, and ensure that Parcel 5 can continue to be safely utilized for uses described in this Agreement, as well as the roof of the Kilbourn Avenue tunnel and the ceiling of the basement level of the MacArthur Square parking structure;

NOW, THEREFORE, the County and City, under the authority of Wis. Stat. § 66.0301, hereby mutually agree as follows:

**1. PURPOSE**

The purpose of this Agreement is to establish the parameters under which the County and the City will work cooperatively and in good faith to fund the replacement of the voided concrete slab which is the subject of this Agreement, including, but not limited to, preliminary engineering, construction, construction engineering, and inspection as necessary.

**2. SCOPE OF AGREEMENT**

This Agreement is a stipulation between the City and County that defines the division of costs to replace improvements owned by the City and occupied by the County under a permanent easement. This Agreement shall not be used as evidence of any admissions or intent by the Parties to assign liability for the conditions described herein. Each Party expressly denies liability for the conditions described herein.

**3. DIVISION OF COSTS**

The City and County agree to the following proportionate share of the included costs described in § 4. The City shall pay fifty percent (50%) of the included costs and the County shall pay fifty percent (50%) of the included costs. To facilitate the foregoing provision, the City shall pay any invoices for included costs in full and then invoice the County for fifty percent (50%) of those included costs. The County shall reimburse the City within thirty (30) days of the date the invoice is received by the County. The City shall provide to the County copies of all invoices related to included costs.

**4. INCLUDED COSTS**

The following included costs shall be divided by the aforementioned fifty/fifty (50/50) split between the City and County as described in § 3 of this Agreement, including all work performed prior and subsequent to execution of this Agreement:

**a. Consultant Work**

The cost of work performed by consultants to design and prepare plans, specifications, and bid package to replace the deteriorated concrete slab that is the subject of this Agreement.

**b. Contractor Work**

The cost to perform the replacement of the deteriorated concrete slab or any costs or liabilities arising out of said work, including the original awarded amount of the contract and any modifications thereto during construction.

**c. Inspection Work**

The cost to implement a construction inspection plan, as well as select and contract with a qualified construction inspection services firm to inspect contractor work.

**d. City/County Employee Managerial Work**

The salary, wage, and fringe costs for City employees to manage contractors, consultants, inspectors, or any other professionals necessary to complete the project such as: addressing communication related to the project; defining the roles for the City, County, Museum, WisDOT, and Bloom Consultants; scheduling, organizing, and running meetings to keep the project on task; providing review comments and approving design plans, specifications, estimates, and invoices. The salary, wage, and fringe costs for County employees to review/comment on related documentation from the City and act as point persons for related communications.

**e. Compliance Costs**

The cost incurred as a result of reasonable efforts to ensure compliance with relevant laws, rules, regulations, and contract provisions.

**5. EXCLUDED COSTS**

The following excluded costs shall not be subject to the fifty/fifty (50/50) divide between the City and County and are specifically excluded from this Agreement:

**a. Employee Administrative Work**

The wage, salary, and fringe cost of the Parties' employees to draft and finalize the language of this Agreement.

**b. Other Costs**

Any cost not listed in the included costs under § 4.

**6. ESTIMATED COST OF PROJECT**

The estimated budget for the project shall be \$2.6 million. Any contracts to perform work under this project shall be approved by each Party's governing body as required by law.

## **7. PROJECT MANAGEMENT**

Representatives from the City and County shall meet once per week, or as often as the Parties agree to meet, to reach consensus and share information for the entirety of the planning through implementation process regarding selection and management of contractors, consultants, and other professionals necessary to complete the replacement of the voided concrete slab, related costs, and progress of construction. Either Party may invite third parties related to the project to participate in any meeting.

## **8. APPROVAL OF CONTRACTORS**

To the extent required by law, the City shall select the lowest responsible bidder to perform any public construction. The City shall provide notice under § 13.m. to the County that the City has selected the lowest responsible bidder. The County shall either approve or object to the lowest responsible bidder selected by the City within three (3) business days after receiving the notice. If the County approves the bidder or fails to object within three (3) business days after receiving notice, the City shall proceed in executing the contract and the City and County shall be bound to pay the invoice pursuant to § 3. If the County timely objects, the City and County shall meet as soon as practicable to resolve the objection. The City may proceed only if the County withdraws its objection or may provide a new notice to the County under this section.

## **9. APPROVAL OF CHANGE ORDERS**

If the City receives a proposed change order, the City shall provide notice under § 13.m. to the County that the City has received a proposed change order. The County shall either approve or object to the change order within three (3) business days after receiving the notice. If the County approves the change order or fails to object within three (3) business days after receiving notice, the City shall proceed in executing the change order and the City and County shall be bound to pay the invoice pursuant to § 3. If the County timely objects, the City and County shall meet as soon as practicable to resolve the objection. The City may proceed only if the County withdraws its objection or may provide a new notice to the County under this section.

## **10. MAINTENANCE AND USE OF PARCEL 5**

After construction of the new improvements to Parcel 5, the County shall be responsible for maintenance and repair of the slab surface as defined in attached Addendum A and consistent with the terms of this Agreement. The City shall have the right to enter and inspect the slab at the sole cost of the City and at any time with prior notice given to the County. After completion of the project, no alterations to the slab surface will be allowed without previous consent from the City including, but not limited to, drilling or anchoring. In addition, Parcel 5 may only be used for light vehicle parking or pedestrian occupancy, defined as 95 pounds per square foot pedestrian loading or an H10 service vehicle (20,000 lbs); Parcel 5 shall not be used for outdoor storage of materials, large vehicle parking, or any other use without previous consent from the City. The City is not

obligated to provide any alternative accommodations for exhibits, parking or other uses of Parcel 5 while future inspection and maintenance work is being performed and as a means of egress from the Milwaukee County Museum.

## **11. DISPUTE RESOLUTION**

The Parties acknowledge and agree that they shall endeavor to resolve any and all issues that may arise under this Agreement in good faith and in the spirit of cooperation consistent with the intent of this Agreement during scheduled meetings under § 7. If any dispute cannot be settled, either Party may, by providing written notice to the other Party, request a meeting between the County's Facilities Management Director and the City's Commissioner of the Department of Public Works (collectively, "Department Heads"). Within five (5) business days of receipt of such written notice, the Department Heads shall set a time and place to meet no later than fifteen (15) business days from the date of receipt of the notice in an attempt to resolve a dispute. If the Department Heads cannot resolve the dispute, both Parties may mutually agree to mediation or either Party may pursue any remedy to which they are entitled under this Agreement, at law, or in equity.

## **12. TERMINATION**

This Agreement shall terminate if and when the permanent easement is removed from title to the property described in Exhibit A. In addition, this Agreement may be terminated by mutual agreement of the Parties and under the terms described in such an agreement. In addition, either Party may terminate this Agreement based upon the other Party's material breach of this Agreement, so long as (i) the terminating Party provides the non-terminating Party written notice of at least ninety (90) days, (ii) such written notice explains and describes the nature of the material breach in reasonable detail; and (iii) the breaching Party was given a reasonable period of time to cure and fails to do so within that period of time.

## **13. MISCELLANEOUS PROVISIONS**

### **a. Prevailing Wage**

If any work performed under this Agreement is controlled by Wis. Stat. § 66.0903, the City shall comply with said statute to the extent required by law.

### **b. Compliance With Other Laws**

The City shall take all reasonable efforts to ensure compliance with relevant laws during the management of this project.

### **c. Entire Agreement**

The entire agreement of the Parties with respect to the subject matter hereof is contained in this Agreement. This Agreement supersedes any other intergovernmental cooperation agreement between the Parties on this subject matter.

**d. Modification**

This Agreement may only be modified by a writing signed by both Parties and identified as an amendment to or modification of this Agreement.

**e. Authorizing Resolutions**

This Agreement is entered into by the Parties pursuant to authority granted under Wis. Stats. § 66.0301, and other provisions of the Wisconsin Statutes. By resolution or ordinance adopted by its governing body, each Party has authorized and directed the representatives of the governing body to enter this Agreement on behalf of the Party.

**f. No Separate Legal Entity**

Nothing contained in this Agreement shall be construed or deemed to create a separate legal entity among the Parties.

**g. Indemnification**

Each Party retains for itself all legal responsibility for injuries, claims, or losses arising from or caused by the acts or omissions of its agents or employees acting within the scope of their employment. Nothing in this Agreement shall be construed as an assumption or indemnification by one Party of any liability of the other Party.

**h. Captions**

The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of the provisions of this Agreement.

**i. Governing Law**

This Agreement is entered into and shall be construed in accordance with the laws of the State of Wisconsin.

**j. Effective Date**

This Agreement shall become effective and binding on both the County and the City upon the last date of execution by either party.

**k. Severability**

If any provision of this Agreement is finally determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall be construed as if the invalid or unenforceable provision had been deleted from the Agreement and the balance of the Agreement shall continue in full force and effect.

**l. Non-waiver**

No provision of this Agreement will be deemed waived by reason of one Party

delaying or failing to enforce the provision on one or more occasion. Any waiver of a provision given on one occasion shall not obviate the need to obtain future waivers of the same provision or excuse a future breach of that provision.

**m. Notices**

Any notices required or permitted under this Agreement shall be in writing and shall be considered given upon delivery, if personally delivered or emailed with evidence thereof, or one (1) business day after deposit with a nationally-recognized commercial courier, or two (2) business days after deposit in the United States Postal Service, certified or registered mail, postage prepaid, in all cases addressed as follows:

If to the County: Milwaukee County  
901 N. 9<sup>th</sup> Street  
Milwaukee, WI 53233  
Attn: Facilities Management Director

If to the City: City of Milwaukee  
841 North Broadway, Room 516  
Milwaukee, WI 53202  
Attn: Commissioner, Dept. of Public Works

**n. No Assignment**

No Party to this Agreement may assign its interest in this Agreement to any other entity or individual without the express written consent of the other Party.

**o. Counterparts**

This Agreement may be executed in one or more counterparts, which, when combined with the other counterparts, shall constitute and be a completely executed document and one single agreement. Signatures submitted by photocopy, facsimile or electronic transmission shall be deemed original, fully enforceable against the Party whose signature is represented thereon; but no one Party's signature shall be binding until all signatures have been added hereto.

[SIGNATURE PAGE TO FOLLOW]

The County and the City have duly approved this Agreement and authorized its execution as set forth below:

**For the City of Milwaukee:**

Ghassan Korban 8/10/17  
Ghassan Korban Date  
Commissioner of Public Works

In the presence of:

\_\_\_\_\_  
Date

**COUNTERSIGNED:**

Martin Matson 8-11-17  
Martin Matson Date  
Comptroller

**Examined as to form and execution:**

[Signature] 8/14/17  
Assistant City Attorney Date  
State Bar #1063074

**For Milwaukee County:**

**Division Approval:**

Dan High 8/22/17  
DAS-Facilities Management Dir. Date

**Approved for Execution by Corporation Counsel:**

Paul Kyritsis 9/1/17  
By Corporation Counsel Date

**Approved as compliant under  
Sec. 59.42(2)(b)5, Stats.**

Paul Kyritsis 9/1/17  
By Corporation Counsel Date

**Approved as compliant under  
Sec. 59.255(2)(e), Stats.**

[Signature] 9/1/17  
By Comptroller Date  
Paul Behr 9/6/17  
By Risk Management Date

Based on  
Res.  
17-427  
[Signature]

**County Executive Approval:**

[Signature] 9/19/17  
Chris Abele, County Executive Date



## **ADDENDUM A**

This addendum shall outline the general responsibilities of the County regarding the maintenance of the proposed concrete slab starting from the completion date of the slab as required by § 10 of the Intergovernmental Cooperation Agreement between the County and City dated \_\_\_\_\_, 2017, to which this addendum is attached (document # 227691).

The County and City shall be responsible for the costs for which they are made responsible by this Addendum.

### **A. CITY INCLUDED COSTS**

The City shall be responsible for the following included costs:

#### **a. Inspection**

The cost and effort to prepare inspection plans, visually inspect, and complete inspection reports for the underside of the reinforced concrete slab within Parcel 5.

#### **b. Repair**

The cost, design, and labor to perform structural repairs on the reinforced concrete slab, including but not limited to the following:

- Crack repair
- Concrete surface repair
- Drain repair or replacement

#### **c. Compliance Costs**

The cost incurred as a result of reasonable efforts to ensure compliance with relevant laws, rules, and regulations.

### **B. COUNTY INCLUDED COSTS**

The County shall be responsible for the following included costs:

#### **a. Inspection**

The cost and effort to inspect the top surface of the reinforced concrete slab to make determinations regarding maintenance of the surface including waterproof membrane.

#### **b. Maintenance**

The cost of the activities to prevent or delay the formation of defects in the reinforced concrete slab, including but not limited to the following:

- Yearly spring wash downs to remove salt and debris build-up and inspection of the waterproof membrane. Coordinated with the City

inspection as described previously to determine the location of potential leaks.

- Drain trap cleaning as needed. Traps should be replaced and maintained as necessary to reduce debris from entering MacArthur Square drainage system.
- Snow and ice removal from the slab surface
  - Rubber blade attachment or brush must be used to not mar or otherwise blemish the surface of the waterproof membrane that would compromise the effectiveness of waterproofing
  - If deicers are to be used, ensure products are either magnesium chloride, magnesium acetate, or calcium chloride to avoid degradation of the membrane and reinforced concrete slab.
- Waterproof membrane recoat every 10 years or as necessary, whichever occurs first. Conditions that would require repairs and recoating of the waterproof membrane include, but are not limited to, delamination, blistering, peeling, loss of aggregate, leaking or open cracks, excessive wear, exposed substrate, etc.
  - Recoat must be compatible with existing system and use a UV-stable topcoat
  - Efforts to coordinate any concrete repairs with the City prior to membrane reapplication.

**c. Compliance Costs**

The cost incurred as a result of reasonable efforts to ensure compliance with relevant laws, rules, and regulations.

This instrument was drafted  
by City of Milwaukee

AGREEMENT

AGREEMENT, made this 14 day of September, 1976, by and between the City of Milwaukee, a municipal corporation, organized and existing under the laws of the State of Wisconsin and its own special charter, hereinafter referred to as "Grantor", and Milwaukee County, a body corporate organized and existing under the laws of the State of Wisconsin, hereinafter referred to as "Grantee".

WHEREAS, The Milwaukee Public Museum Building and the lands upon which it is situated have been conveyed by the City of Milwaukee in fee simple to Milwaukee County; and

WHEREAS, There exist certain subterranean areas lying beneath the Civic Center of MacArthur Square Plaza consisting of a number of rooms which lie outside the bounds of the lands conveyed to Grantee and which rooms are used in connection with and a necessary and integral part of the operation of the Museum; and

WHEREAS, It is the intent of the parties that these subterranean rooms continue to be utilized for Museum purposes; and

WHEREAS, There exists in the Civic Center Plaza of MacArthur Square an area known as the "Space Center" consisting of surface and subsurface areas which are also used in conjunction with the Museum and which the parties are desirous of continuing the use of said areas as an integral part of the Museum.

NOW, THEREFORE, In consideration of the grant of the rights hereinafter described and in consideration of the payment of \$1.00 and other valuable consideration to the Grantor, receipt of which is hereby acknowledged, it is mutually agreed and understood by and between the parties as follows:

The Grantor, for itself, its successors and assigns, being the owner of the lands hereinafter described, does hereby grant unto the Grantee, a permanent easement to those certain subterranean areas adjacent to the Museum Building and consisting of rooms used in conjunction with the Museum which rooms are indicated as parcels 1 through 4 and 6 on Exhibit "A" which is attached hereto and made a part hereof and which subterranean areas are further legally described as follows:

Parcel 1

That part of the Northwest 1/4 of Section 29, Township 7 North, Range 22 East described as follows: Commencing at a point which is in the northwest corner of Lot 7 of Block 170 in the Plat of the East 1/2 of the Northwest 1/4 of Section 29, said point also being the point of intersection of the east line of vacated North 8th Street and the south line of proposed vacated West Kilbourn Avenue; running thence North 27.00 feet on the east line of vacated North 8th Street extended to a point; thence West 15.40 feet to a point

This instrument was drafted by Gerald V. Kortsch, Attorney.

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of the east line of vacated North 8th Street and the south line of proposed vacated West Kilbourn Avenue; running thence North 27.00 feet on the east line of vacated North 8th Street extended to a point; thence West 15.40 feet to a point, said point being 27.00 feet north of the south line of proposed vacated West Kilbourn Avenue; thence North 17.00 feet to a point, said point being 44.00 feet north of the south line of proposed vacated West Kilbourn Avenue and 15.40 feet west of the east line of vacated North 8th Street extended and also being the beginning of the land to be described; the said beginning point lying between the elevations of 26.00 feet and 39.50 feet; thence North 23.00 feet to a point, said point being 67.00 feet north of the south line of proposed vacated West Kilbourn Avenue and 15.40 feet west of the east line of vacated North 8th Street extended and lying between the elevations of 26.00 feet and 39.50 feet; thence East 6.40 feet to a point, said point being 67.00 feet north of the south line of proposed vacated West Kilbourn Avenue and 9.00 feet west of the east line of vacated North 8th Street extended and lying between the elevations of 26.00 feet and 39.50 feet; thence North 12.74 feet to a point, said point being 79.74 feet north of the south line of proposed vacated West Kilbourn Avenue and 9.00 feet west of the east line of vacated North 8th Street extended and lying between the elevations of 26.00 feet and 39.50 feet; thence Southeasterly 42.81 feet to a point, said point being 79.00 feet north of the south line of proposed vacated West Kilbourn Avenue and 33.80 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 25.35 feet and 39.50 feet; thence East 56.20 feet to a point, said point being 78.40 feet north of the south line of proposed vacated West Kilbourn Avenue and 90.00 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 24.45 feet and 39.50 feet; thence North 14.00 feet to a point, said point being 92.40 feet north of the south line of proposed vacated West Kilbourn Avenue and 90.00 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 24.45 feet and 39.00 feet; thence Northeasterly 30.23 feet to a point, said point being 94.10 feet north of the south line of West Kilbourn Avenue and 120.20 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 24.00 feet and 39.50 feet; thence South 72.50 feet to a point, said point being 21.60 feet north of the south line of West Kilbourn Avenue and 120.20 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 24.00 feet and 39.50 feet; thence West 18.20 feet to a point, said point being 21.60 feet north of the south line of West Kilbourn Avenue and 102.00 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 24.25 feet and 39.50

elevations of 25.80 feet and 37.50 feet; thence West 15.40 feet to a point, said point being 27.00 feet north of the south line of proposed vacated West Kilbourn Avenue and lying between the elevations of 26.00 feet and 37.50 feet; thence North 17.00 feet to a point, said point being 44.00 feet north of the south line of proposed vacated West Kilbourn Avenue and 15.40 feet west of the east line of vacated North 8th Street extended and lying between the elevations of 26.00 feet and 37.50 feet; thence East 34.00 feet to a point, said point being 44.00 feet north of the south line of proposed vacated West Kilbourn Avenue and 18.60 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 25.50 feet and 37.50 feet; thence South 12.50 feet to a point, said point being 31.50 feet north of the south line of proposed vacated West Kilbourn Avenue and 18.60 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 25.50 feet and 37.50 feet; thence West 18.60 feet to a point, said point being in the east line of vacated North 8th Street extended and lying between the elevations of 25.80 feet and 37.50 feet; thence South 4.50 feet on the east line of vacated North 8th Street extended to the point of beginning.

All indicated elevations are referenced to the City of Milwaukee datum.

Parcel 4

That part of the Northwest 1/4 of Section 29, Township 1 North, Range 22 East described as follows: Commencing at a point which is in the northwest corner of Lot 7 of Block 170 in the Plat of the East 1/2 of the Northwest 1/4 of Section 29, said point also being the point of intersection of the east line of vacated North 8th Street and the south line of proposed vacated West Kilbourn Avenue; running thence North 31.50 feet on the east line of vacated North 8th Street extended to a point; thence East 39.50 feet to a point, said point being 31.50 feet north of the south line of proposed vacated West Kilbourn Avenue and being the beginning of the land to be described: The said beginning point, lying between the elevations of 21.00 feet and 39.50 feet; thence North 2.00 feet to a point, said point being 33.50 feet north of the south line of proposed vacated West Kilbourn Avenue and 39.50 feet east of the east line of vacated North 8th Street extended and lying between the elevations of 21.00 feet and 39.50 feet; thence East 22.00 feet to a point, said point being 33.50 feet north of the south line of proposed vacated West Kilbourn Avenue and 61.50 feet east of the east line of vacated

The Grantor further grants unto the Grantee a permanent easement to the surface and subsurface rights to that certain area commonly referred to as the "Space Center" which is designated as Parcel 5 on Exhibit "A" attached hereto and which area is more particularly described as follows:

Parcel 5

That part of the Northwest 1/4 of Section 29, Township 7 North, Range 22 East described as follows: Commencing at a point which is in the northwest corner of Lot 7 of Block 170 in the Plat of the East 1/2 of the Northwest 1/4 of Section 29, said point also being the point of intersection of the east line of vacated North 8th Street and the south line of proposed vacated West Kilbourn Avenue; running thence East on the south line of West Kilbourn Avenue and the south line of proposed vacated West Kilbourn Avenue, 120.20 feet to a point; thence North 21.60 feet to a point; said point being 120.20 feet east of the east line of vacated North 8th Street extended and being the beginning of the land to be described; The said beginning point lying above the elevation of 24.00 feet; thence North 72.50 feet to a point, said point being 94.10 feet north of the south line of West Kilbourn Avenue and 120.20 feet east of the east line of vacated North 8th Street extended and lying above the elevation of 24.00 feet; thence East 104.80 feet to a point; said point being 94.10 feet north of the south line of West Kilbourn Avenue and 225.00 feet east of the east line of vacated North 8th Street extended and lying above the elevation of 24.00 feet; thence South 14.35 feet to a point; said point being 79.75 feet north of the south line of West Kilbourn Avenue and 225.00 feet east of the east line of vacated North 8th Street extended and lying above the elevation of 24.00 feet; thence Southwesterly along a curve with a chord of 22.80 feet and a radius of 72.00 feet whose center lies to the northwest to a point, said point being 57.40 feet north of the south line of West Kilbourn Avenue and 220.50 feet east of the east line of vacated North 8th Street extended and lying above the elevation of 24.00 feet; thence Southeasterly 11.55 feet to a point, said point being 46.75 feet north of the south line of West Kilbourn Avenue and 225.00 feet east of the east line of vacated North 8th Street extended and lying above the elevation of 24.00 feet; thence Southwesterly along a curve with a chord of 30.93 feet and a radius of 85.00 feet whose center lies to the northwest to a point; said point being 21.60 feet north of the south line of West Kilbourn Avenue and 207.00 feet east of the east line of vacated North 8th Street extended and lying above the elevation of 24.00 feet; thence West 13.60 feet to a point, said point being 21.60 feet north of the south line of West Kilbourn Avenue and 193.40 feet

The parties further agree, as part of the consideration of this Agreement that the Grantee shall so maintain and operate the rights herein granted in such a manner that the operation thereof will in no way hinder or prevent the proper and reasonable use and enjoyment of the Civic Center Plaza or MacArthur Square, the MacArthur Square Garage structure and the freeway tunnel.

The Grantee agrees to indemnify and save harmless the City of Milwaukee from and against all liability for injury to persons or damage to property occasioned by the negligence of Grantee, its officers, agents, employees, or servants; or by reason of the violation, disregard, or breach of any law, ordinance, order, or regulation by Grantee, its officers, employees, agents, or servants; or in any manner arising out of its occupancy or use of the premises demised herein; or arising out of entry upon, the occupancy or use of said premises by any other person, firm, or corporation having the consent or authorization of Grantee for the entry upon, occupancy, or use of said premises. Grantee agrees to pay all expenses in defending against any claims made against Grantor arising out of the activities of Grantee, its officers, agents, servants, and employees, provided, however, that Grantee shall not be liable for any damage, injury, or loss or costs of defense occasioned by negligence on the part of Grantor, its officers, employees, agents, or servants. Grantee shall give Grantor prompt and timely notice of any claims made or service of process which in any way, directly or indirectly, contingently or otherwise, affects Grantor, and Grantor shall give Grantee similar notice of such claims or service of process as may come to its attention.

Code Compliance: Grantee, its officers, agents and employees shall at all times comply with all applicable codes, regulations and laws and ordinances now in effect or which may be enacted as they may relate to the premises.

It is understood that the walls, ceilings, and floors of the rooms situated in the areas herein conveyed are joint walls, ceilings and floors with the MacArthur Square Garage structure and further constituting the base of the Civic Center Plaza, and the top structural slab of the off ramp tunnel for the North-South Freeway.

The Grantee shall be responsible for the maintenance and repair of the surfaces of all floors, walls and ceilings of the rooms situated in the areas herein conveyed. The Grantor shall be responsible for the structural maintenance and repair of all such walls, ceilings and floors.

Right of Entry: Grantor, its agents or employees shall have the right to enter upon the premises herein conveyed at all reasonable hours for purposes of inspection and making repairs consistent with and in accordance with its responsibilities under the terms of this agreement.

employees, patrons or other persons, from any cause whatsoever, unless such damage or loss shall result from the negligence of the Grantor, its officers, employees or agents.

IN WITNESS WHEREOF, The said City of Milwaukee, party of the first part, has caused these presents to be signed by Henry W. Maier, its Mayor, and by Allen R. Calhoun, Jr., its City Clerk, and countersigned by James A. McLean, its City Comptroller, at Milwaukee, Wisconsin, and its corporate seal to be hereunto affixed, this 15 day of September, 1976.

CITY OF MILWAUKEE

By

Henry W. Maier Mayor  
Allen R. Calhoun, Jr. City Clerk

Signed and sealed  
in presence of:

Sandra J. Westbrook  
L. H. Larson

COUNTERSIGNED:

James A. McLean  
City Comptroller



IN WITNESS WHEREOF, the said Milwaukee County, party of the second part, has caused these presents to be signed by F. Thomas Arment, its County Board Chairman, and by Thomas E. Zablocki, its County Clerk, at Milwaukee, Wisconsin, and its corporate seal to be hereunto affixed this 17th day of SEPTEMBER, 1978.

Signed and sealed in  
presence of:

MILWAUKEE COUNTY

Thomas M. Miller

By F. Thomas Arment  
Chairman, County Board of Supervisors

Thomas E. Zablocki

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County Clerk

From the Director, Facilities Management Division, Department of Administrative Services, requesting authorization to execute an Intergovernmental Cooperation Agreement between Milwaukee County and the City of Milwaukee regarding replacement, maintenance, and use of improvements with the MacArthur Square easement area, by recommending adoption of the following:

### AN AMENDED RESOLUTION

WHEREAS, on September 14, 1976, the City of Milwaukee (the City) and Milwaukee County (the County) entered into an easement agreement granting the County a permanent easement to City-owned property at the City's MacArthur Square parking structure, for which the easement area was to be used in conjunction with expansion of the Milwaukee Public Museum (MPM); and

WHEREAS, the easement agreement granted certain rights and responsibilities to the County, including, but not limited to, the responsibility of "maintenance and repair of the surfaces of all floors, walls and ceilings of the rooms situated in the areas herein conveyed," and the easement agreement also granted certain rights and responsibilities to the City, including, but not limited to, the responsibility of "structural maintenance and repair of all such walls, ceilings, and floors;" and

WHEREAS, in a second easement agreement between the City and County (the Parties), dated October 6, 1983, the City granted additional rights to the County, but did not alter the responsibilities of the Parties to maintain and repair the floors, walls, and ceilings to the same extent as the original easement agreement; and

WHEREAS, included in the easement agreement is an area identified as the Civic Center Plaza or Space Center ("Parcel 5" - more recently known for housing the outdoor Pioneer Village exhibit), of which large portions of this area are above the Interstate-43 exit ramp to the Kilbourn Avenue tunnel, and the lower level of the MacArthur Square parking structure; and

WHEREAS, when the MPM was originally constructed by the City, the Parcel 5 space was originally intended to be the floor of a building to be constructed at a later date; and

WHEREAS, the concrete floor was made from voided concrete designed for indoor use; and the structure above Parcel 5 was never constructed causing the voided concrete slab to deteriorate due to exposure to outdoor weather since its construction in the 1960s; and

WHEREAS, a structural engineering consultant hired by the City inspected the voided concrete slab and recommended replacement of the voided concrete slab; and

47 WHEREAS, upon further investigation, it has been determined that the voided  
48 slab extends approximately ten feet under the museum lunch room, which will also  
49 require replacement due to deterioration requiring reconstruction of a portion of the  
50 lunch room; and

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52 WHEREAS, the structural engineering consultant has been hired by the City to  
53 design a replacement slab that will meet the County's needs for light parking or  
54 occupied outdoor space on Parcel 5; and

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56 WHEREAS, the County will retain the rights to use Parcel 5 as described in the  
57 easement agreement, and shall be responsible for maintenance of the slab surface and  
58 snow removal, and limited in its use of Parcel 5 as described in the Intergovernmental  
59 Cooperation Agreement (ICA); and

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61 WHEREAS, the work necessary to replace the deteriorated concrete slab is  
62 expected to occur in 2018 during the summer months when the lunch room is at its  
63 lowest use; and

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65 WHEREAS, the goal is to ensure that Parcel 5 can continue to be safely utilized  
66 for uses described in the ICA, as well as the roof of the Kilbourn Avenue tunnel and the  
67 ceiling of the basement level of the MacArthur Square parking structure; and

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69 WHEREAS, the Parties propose a 50/50 proportionate share of the cost of  
70 replacing the voided concrete slab and related impacts to the museum lunch room,  
71 reflective of their respective roles as owner and easement occupant; and

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73 WHEREAS, the estimated project cost is \$2.6 million for consultant, staff and  
74 construction costs, of which \$1.3 million is estimated to be the County's responsibility,  
75 which will be requested in the 2018 Capital Budget; and

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77 WHEREAS, costs are being incurred by the City for planning and design in 2017;  
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80 WHEREAS, a fund transfer to re-allocate funds from the Facilities Management  
81 Division operations budget to address the County's 50 percent share of the planning  
82 and design costs incurred in 2017, estimated at \$65,000, is being submitted to the  
83 Milwaukee County Board of Supervisors concurrently with this ICA; and

85 WHEREAS, the Committee on Transportation, Public Works, and Transit, at its  
86 meeting of July 12, 2017, recommended adoption of File No. 17-427 (vote 4-0); now,  
87 therefore,  
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89 BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board)  
90 hereby authorizes the County Executive and other Milwaukee County (the County) staff  
91 to execute an Intergovernmental Cooperation Agreement (ICA) between the County and  
92 City of Milwaukee regarding replacement, maintenance, and use of improvements  
93 within the MacArthur Square easement area; and  
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95 BE IT FURTHER RESOLVED, the County Executive, based on his signature of  
96 the ICA, will include a 2018 capital budget amount sufficient to cover 50 percent of the  
97 project cost, estimated at \$1.3 million, to replace the voided slab, and for other  
98 allowable uses in the Parcel 5 area, and the County Board will duly consider this 2018  
99 capital budget request.  
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101 ~~BE IT FURTHER RESOLVED, the ICA commits the County to 50 percent of the~~  
102 ~~project cost to replace the voided concrete slab and other allowable uses in the Civic~~  
103 ~~Center Plaza or Space Center area, estimated at \$1.3 million.~~  
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